

REMARKS

The Office required restriction citing 35 U.S.C. § 121 to one of the following inventions:

- I. Claims 51-64, 72 and 73, drawn to a device and a kit, classified in class 604, subclass 187;
- II. Claims 65-68, drawn to a subdural catheter, classified in class 604, subclass 523;
- III. Claims 69-70, drawn to a subdural insertional guide, classified in class 604, subclass 104; and
- IV. Claim 74, drawn to a subdural catheterization kit, classified in class 604, subclass 264.

The Office indicates that each of the inventions are distinct from each other.

ELECTION

Applicant elects the group identified by the Examiner as Group I including claims 51-64, 72 and 73. Further, Applicant elects, with traverse, the species identified by the Examiner as "b" including Figures 6C-6E. Applicant identifies all elected claims, that is, 51-64, 72 and 73 as readable on the elected species.

Applicant respectfully traverses the species election required by the Office. Restriction under 35 U.S.C. § 121 is never required, as stated by the Office in numbered paragraph 6. Rather it is permissive and improper where an Examiner will not be seriously burdened in searching the invention claimed. Here, the Examiner's search of apparatus claims 51-64, 72 and 73 (group 1) will uncover references directed toward the species including Figures 6A and 6B as well as the species including Figures 6C and 6E. For example, elements called for in claims 57-60 can be configured as shown in the embodiment of Figures 6C - 6E. Thus, claim 51 is generic to both species identified by the Office despite the assertion to the contrary. Applicant

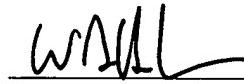
respectfully submits that the Examiner will not be seriously burdened in searching the species described in the restricted claims. Therefore, to conserve time and expense for both the Office and the Applicant, Applicant respectfully requests that the Examiner withdraw the Restriction Requirement.

CONCLUSION

For the reasons above, the restriction requirement is improper and should be withdrawn.

Applicant appreciates the Examiner's attention to this matter. While no additional fees are believed to be due, please charge any additional fees or credit any overpayments to Deposit Account 02-2051 referencing Attorney Docket No. 26998-2.

Respectfully submitted,



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